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Federal Communications Commission  
Washington, D.C. 20554

DISPATCHED BY

MM Docket No. 92-128

In the Matter of

Amendment of Section 73.202(b), RM-8002  
Table of Allotments,  
FM Broadcast Stations.  
(South Hill and Lawrenceville, Virginia)

**NOTICE OF PROPOSED RULE MAKING  
AND ORDER TO SHOW CAUSE**

Adopted: June 10, 1992;

Released: June 18, 1992

Comment Date: August 10, 1992

Reply Comment Date: August 25, 1992

By the Assistant Chief, Policy and Rules Division:

1. The Commission has before it the petition for rule making filed by Old Belt Broadcasting Corporation ("petitioner"), licensee of Station WSHV-FM, requesting the exchange of channels between Station WSHV-FM, Channel 288A, South Hill, Virginia, and Station WHFD-FM, Channel 255A, Lawrenceville, Virginia, and the modification of the authorizations of both stations, accordingly. Petitioner states that it will apply for Channel 255A at South Hill and will also reimburse the permittee of Station WHFD-FM for the reasonable costs associated with the change in channel at Lawrenceville, Virginia. William Carlton Link, permittee of Station WHFD-FM, filed comments conveying his opposition to exchanging channels with petitioner.

2. In support of its proposal, petitioner advises that both stations are precluded from operation with 6 kilowatts power on their present channels due to other existing or proposed FM stations. Petitioner asserts the proposed exchange of channels will enable both stations to increase the power of their respective stations to 6.0 kilowatts, resulting in large gains in areas and populations receiving FM services in the South Hill and Lawrenceville areas. Petitioner also states that no community would lose any present or potential FM service.

3. We believe the public interest would be served by proposing the exchange of channels between Station WSHV-FM, South Hill, and Station WHFD-FM, Lawrenceville, Virginia, since it could provide both communities with an improved FM service. Channel 255A can be allotted to South Hill and Channel 288A can be allotted to Lawrenceville, Virginia, in compliance with the Commission's minimum distance separation requirements and can be used at the transmitter sites specified in Station

WSHV-FM's and Station WHFD-FM's authorizations, respectively.<sup>1</sup> Therefore, we will direct an *Order to Show Cause* to the permittee of Station WHFD-FM why its construction permit should not be modified to specify operation on Channel 288A in lieu of Channel 255A. Petitioner will be required to reimburse the permittee of Station WHFD-FM for the reasonable costs of moving to Channel 288A if this proposal is ultimately adopted.

4. Accordingly, we seek comments on the proposed amendment of the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

	Channel No.	
City	Present	Proposed
South Hill, Virginia	288A	255A
Lawrenceville, Virginia	255A	288A

5. Accordingly, IT IS ORDERED, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, William Carlton Link, permittee of Station WHFD-FM, Lawrenceville, Virginia, SHALL SHOW CAUSE why its license SHOULD NOT BE MODIFIED to specify operation on Channel 288A as proposed herein instead of the present Channel 255A.

6. Pursuant to Section 1.87 of the Commission's Rules, William Carlton Link, may not later than **August 10, 1992**, file a written statement showing with particularity why its construction permit should not be modified as proposed in the *Order to Show Cause*. The Commission may call on William Carlton Link to furnish additional information. If William Carlton Link raises a substantial and material question of fact, a hearing may be required to resolve such a question pursuant to Section 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statement is filed by the date referred to above, William Carlton Link will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modification is ultimately found to be in the public interest.

7. IT IS FURTHER ORDERED, That the Secretary SHALL SEND, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, a copy of this *Notice of Proposed Rule Making and Order to Show Cause* to the William Carlton Link, Route 1, Box 16, Highway 58 East, Lawrenceville, Virginia, 23868 (permittee of Station WHFD-FM).

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. In particular, we note that a showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before **August 10, 1992**, and reply comments on or before **August 25, 1992**, and are advised to read the Appendix for the

<sup>1</sup> The coordinates for Channel 255A at South Hill are North Latitude 36-44-39 and West Longitude 78-09-42. The coordinates

for Channel 288A at Lawrenceville are North Latitude 36-45-10 and West Longitude 77-51-49.

proper procedures. Comments should be filed with the Secretary, Federal Communications Commission, Washington, D.C. 20554. Additionally, a copy of such comments should be served on the petitioner, or its counsel or consultant, as follows:

Earl R. Stanley, Esq.  
 Wilkinson, Barker, Knauer & Quinn  
 1735 New York Avenue, N.W.  
 Washington, D.C. 20006  
 (Counsel for petitioner)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules. *See Certification That Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, February 9, 1981.

11. For further information concerning this proceeding, contact Pamela Blumenthal, Mass Media Bureau, (202) 634-6530. For purposes of this restricted notice and comment rule making proceeding, members of the public are advised that no *ex parte* presentations are permitted from the time the Commission adopts a Notice of Proposed Rule Making until the proceeding has been decided and such decision is no longer subject to reconsideration by the Commission or review by any court. An *ex parte* presentation is not prohibited if specifically requested by the Commission or staff for the clarification or adduction of evidence or resolution of issues in the proceeding. However, any new written information elicited from such a request or a summary of any new oral information shall be served by the person making the presentation upon the other parties to the proceeding unless the Commission specifically waives this service requirement. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

#### FEDERAL COMMUNICATIONS COMMISSION

Beverly McKittrick  
 Assistant Chief  
 Policy and Rules Division  
 Mass Media Bureau

#### APPENDIX

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, Section 73.202(b) of the

Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut - off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (*See* Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or by persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (*See* Section 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street N.W., Washington, D.C.